

**FINAL DEVELOPMENT
PLAN AMENDMENT CONDITIONS**

FDPA 2005-PR-041-2

June 22, 2011

If it is the intent of the Planning Commission to approve FDPA 2005-PR-041-2 for a mixed-use development located at Tax Maps 49-3 ((37)) C, D, F, G and J, staff recommends that the Planning Commission condition the approval by requiring conformance with the following development conditions, which supersede all previous conditions (those conditions carried forward from previous approval that apply to the subject property are marked with an asterisk*):

1. Development of the property shall be in substantial conformance with the CDP/FDP entitled "Merrifield Town Center" consisting of sixty-seven sheets prepared by VIKa Inc, Edens & Avant, and RTKL Associates, dated January 10, 2011, as revised through June 17, 2011.
2. Stormwater Management for the subject property shall be provided in conformance with the Waiver Conditions associated with the Public Facilities Manual Waiver #0561-WPFM-002-3.* (see Attachment A)
3. If development of North Park occurs in conformance with the Memorandum of Understanding referenced in proffer XIV.2, an FDPA will not be required.
4. Temporary parking (referenced in Proffer V4) shall include appropriate signage in accordance with Article 12 of the Zoning Ordinance.*
5. Any building on Parcel G that results in more than 7 stories in height shall be subject to the review and approval of a Final Development Plan Amendment (FDPA) to ensure that the building design is compatible with the surrounding buildings.
6. The residential portion of the PDC District in the original rezoning development shall not exceed 63% as a result of the proposed residential square footage in PDC portion of the FDPA application.

The above proposed conditions are staff recommendations and do not reflect the position of the Planning Commission unless and until adopted by the Planning Commission.

ATTACHMENT A

Attachment A

Waiver #0561-WPFM-002-3 Conditions

Merrifield Town Center
RZ 2005-PR-041
November 30, 2006

1. The underground facilities shall be constructed in accordance with the development plan, these conditions and as determined by the Director of the Department of Public Works and Environmental Services (DPWES).
2. To provide greater accessibility for maintenance purposes, the underground facilities shall have a minimum interior height of 72" and be located as close to the edge of the building perimeter as possible, as determined by DPWES. The underground facilities shall not be located within the open space areas of the proposed development.
3. The underground facilities shall be constructed of reinforced concrete products only and incorporate safety features, including locking manholes and doors, as determined by DPWES at the time of construction plan submission.
4. The underground facilities shall be privately maintained and shall not be located in a County storm drain easement.
5. A private maintenance agreement, as reviewed and approved by the Fairfax County Attorney's Office, shall be executed and recorded in the Land Records of the County. The private maintenance agreement shall be executed prior to final plan approval.

The private maintenance agreement shall address:

- County inspection and all other issues as may be necessary to insure that the facilities are maintained by the property owners (e.g. Condominium Association or Owners Association) in good working condition acceptable to the County so as to control stormwater generated from the development of the site.
- A condition that the applicant, property owners, their successors or assigns shall not petition the County to take future maintenance or replace the underground facilities.
- Establishment of a reserve fund, for future replacement of the underground facilities.
- Establishment of procedures to follow to facilitate inspection by the County, i.e. advance notice procedure, whom to contact, who has the access keys, etc.
- A condition that the property owners provide and continuously maintain, liability insurance. The typical liability insurance amount is at least \$1,000,000, against claims associated with underground facilities.
- A statement that Fairfax County shall be held harmless from any liability associated with the facilities.

6. Operation, inspection and maintenance procedures associated with the underground facilities shall be incorporated in the site construction plan, private maintenance agreement, and property owner association documents which insure safe operation, inspection and maintenance of the facilities.
7. A financial plan, for the property owner association, to finance regular maintenance and full life cycle replacement costs, shall be established prior to final subdivision plat approval. A separate line item in the property owner association annual budget for operation, inspection and maintenance shall be established. A reserve fund for future replacement of the underground facilities shall also be established to receive annual deposits from the members of the property owners association based on the initial construction costs and an estimated 50-year lifespan for concrete products.
8. Prior to final construction plan approval, the applicant shall escrow sufficient funds for the benefit of the property owner association which will cover a 20-year maintenance cycle of the underground facilities. These monies shall not be made available to the property owner association until after final bond release.
9. All future purchasers of any of the residential units shall be advised prior to entering into a contract of sale, as well as within the recorded property owner association documents, that the property owner association is responsible for the operation, inspection, maintenance and replacement of the underground facilities.
10. The owner and its successors and assigns shall disclose, as part of the chain of title, to all future property owners, the presence of the underground stormwater facilities and the umbrella owner association's responsibility for operation, inspection, maintenance and replacement of such facilities, by including the following language within the deed for each lot and the record plat:

"The owner and its successors and assigns are responsible for the operation, inspection, maintenance and replacement of the underground stormwater facilities as set forth in the property owners association documents and a private maintenance agreement entered into with the County."